

IN THE U.S. PATENT & TRADEMARK OFFICE

APPLICANTS: WINKLER & RAPP CONF. #: 3737

SERIAL #: 10/ 562,628 = § 371 of PCT/EP2004/005017

FILED: 22 DEC. 2005 Att. Docket #: 870-003-200

TITLE: MINI-FAN

ART UNIT: 3746

ATTN: DEVON KRAMER

PETITION TO WITHDRAW FINALITY & RESET TIME FOR RESPONSE

Commissioner for Patents
PO BOX 1450
Alexandria VA 22313-1450

15 JUL. 2009

Sir:

Applicants respectfully petition the Office to

- (A) reset the mailing date of the Office Action in this matter to today's date, on the grounds that the Action was mis-addressed and **received belatedly** due to the mis-addressing, and
- (B) to withdraw the finality, for non-compliance with MPEP §706.07(a).

The Power of Attorney in this Action lists Milton Oliver first. Milton Oliver **withdrew** from the WARE FRESSOLA firm in Connecticut in NOV. 2008, and on MAR. 12, 2009, submitted form SB 122, directing that further correspondence be directed to CUST. # 83409 in Massachusetts. **Despite this**, correspondence was sent to WARE FRESSOLA and had to be forwarded by them to Milton Oliver. The Action was received TWO WEEKS after the mailing date.

MPEP §706.07(a) [PAGE 700-82, right column, middle paragraph] states:

"A second or any subsequent action on the merits of any application ... **shall not be made final** if it includes a rejection, on prior art not of record, of any claim amended to include limitations which should reasonably have been expected to be claimed."

Applicants on MAR. 12, 2009 amended claim 1 to incorporate the feature of former dependent claim 45, which the Office should reasonably have expected. See 1st paragraph of REMARKS. The **ONO** JP 2002-171 712-A was not of record, and a copy was NOT FURNISHED with the Final Rejection. Nevertheless, paragraph 3 of the Action relies upon ONO as part of a **new ground** of rejection, namely obviousness in combination with the HORNG reference. If the Office intends to rely upon the machine translation listed on form PTO-892, a copy **must be furnished**. As far as Applicants can determine, the **only** Japanese reference previously of record was JP 2002-031 088, **not** JP 2002-171 712.

Respectfully submitted,



Milton Oliver, Reg. # 28 333
OLIVER INTELLECTUAL PROPERTY LLC
CUST # 83409

TEL: 774-521-3058
FAX: 774-521-3062

Enc: copy of SB 122 & receipt
excerpt from POWER

EMAIL: MILTONOLIVER@IEEE.ORG

Attorney Docket # 870-003-200
/8703-200/8703-200-PETN.PDF

M

US-

FOREIGN PATENT DOCUMENTS

*	Document Number Country Code-Number-Kind Code	Date MM-YYYY	Country	Name	Classification
*	N JP 2002171712 A	06-2002	Japan	ONO et al.	H02K 01/22
O					
P					
Q					
R					
S					
T					

NON-PATENT DOCUMENTS

*		Include as applicable: Author, Title Date, Publisher, Edition or Volume, Pertinent Pages
*	U	Machine Translation of Japanese Patent JP 2002171712 A to Ono et al on June 14, 2002, Title: "Spindle motor for disk drive, has stopper to regulate elutriation of axial holder and shaft, which is engaged with recess formed in shaft"
*	V	
	W	
	X	

*A copy of this reference is not being furnished with this Office action. (See MPEP § 707.05(a).)
Dates in MM-YYYY format are publication dates. Classifications may be US or foreign.

U.S. Patent and Trademark Office
PTO-892 (Rev. 01-2001)

Notice of References Cited

Part of Paper No. 20090513

DOES NOT

COMPLY WITH
707.05(a) [SEE ATTACHED]

application rather than on the filing date of any parent U.S. application for which *>benefit< is claimed. Examiners should cite of interest all material prior art having an effective filing date after the filing date of the U.S. parent application but before the actual filing date of the application being examined.

Allowed applications should generally contain a citation of pertinent prior art for printing in the patent, even if no claim presented during the prosecution was considered unpatentable over such prior art. Only in those instances where a proper search has not revealed any prior art relevant to the claimed invention is it appropriate to send an application to issue with no art cited. In the case where no prior art is cited, the examiner must write "None" on a form PTO-892 and insert it in the file wrapper. For Image File Wrapper (IFW) processing, see IFW Manual section 3.7. Where references have been cited during the prosecution of parent applications and a continuing application, having no newly cited references, is ready for allowance, the cited references of the parent applications should be listed on a form PTO-892. The form should then be placed in the file of the continuing application. For Image File Wrapper (IFW) processing, see IFW Manual section 3.7. See MPEP § 1302.12. In a continued prosecution application filed under 37 CFR 1.53(d), it is not necessary to prepare a new form PTO-892 since the form from the parent application is in the same file wrapper and will be used by the printer.

In all continuation and continuation-in-part applications, the parent applications should be reviewed for pertinent prior art.

Applicants and/or applicants' attorneys in PCT related national applications may wish to cite the material citations from the PCT International Search Report by an information disclosure statement under 37 CFR 1.97 and 1.98 in order to ensure consideration by the examiner.

In those instances where no information disclosure statement has been filed by the applicant and where documents are cited in the International Search Report but neither a copy of the documents nor an English translation (or English family member) is provided, the examiner may exercise discretion in deciding whether to take necessary steps to obtain the copy and/or translation.

Copies of documents cited will be provided as set forth in MPEP § 707.05(a). That is, copies of docu-

ments cited by the examiner will be provided to applicant *except* where the documents:

- (A) are cited by applicant in accordance with MPEP § 609, § 707.05(b), and § 708.02;
- (B) have been referred to in applicant's disclosure statement;
- (C) are cited and have been provided in a parent application;
- (D) are cited by a third party in a submission under 37 CFR 1.99 (MPEP § 1134.01); or
- (E) are U.S. Patents or U.S. application publications.

See MPEP § 707.05(e) regarding data used in citing references.

707.05(a) Copies of Cited References

[R-3] 

Copies of cited >foreign patent documents and non-patent literature< references (except as noted below) are automatically furnished without charge to applicant together with the Office action in which they are cited. Copies of the cited references are also placed in the application file for use by the examiner during the prosecution. >Copies of U.S. patents and U.S. patent application publications are not provided in paper to applicants and are not placed in the application file.<

Copies of references cited by applicant in accordance with MPEP § 609, § 707.05(b) and § 708.02 are *not* furnished to applicant with the Office action. Additionally, copies of references cited in continuation applications if they had been previously cited in the parent application are not furnished. The examiner should check the left hand column of form PTO-892 if a copy of the reference is not to be furnished to the applicant.

Copies of foreign patent documents and nonpatent literature (NPL) which are cited by the examiner at the time of allowance will be furnished to applicant with the Office action, and copies of the same will also be retained in the file. For Image File Wrapper (IFW) processing, see IFW Manual section 3.7. This will apply to all allowance actions, including first action allowances and *Ex Parte Quayle* actions.

In the rare instance where no art is cited in a continuing application, all the references cited during the prosecution of the parent application will be listed at allowance for printing in the patent.

MINILÜFTER

GERMAN-LANGUAGE DECLARATION

Ich beanspruche hiermit, gemäss Absatz 35 der Bundesgesetze der Vereinigten Staaten, § 120, den Vorzug aller unten angeführten Anmeldung und falls der Gegenstand aus jedem Anspruch dieser Anmeldung nicht in einer früheren amerikanischen Patentanmeldung laut dem ersten Paragraph des Absatzes 35 der Bundesgesetze der Vereinigten Staaten, § 112, offenbart ist, erkenne ich gemäss Absatz 37, Bundesvorschriften, § 1.56(a), meine Pflicht zur Offenbarung von Informationen an, die zwischen dem Anmeldedatum der früheren Anmeldung und dem nationalen oder PCT internationalen Anmeldedatum dieser Anmeldung bekannt geworden sind.

I hereby claim the benefit under Title 35, United States Code, § 120, of any United States application(s) listed below and, insofar as the subject-matter of each of the claims of this application is not disclosed in the prior United States application in the manner provided by the first paragraph of Title 35, United States Code, § 112, I acknowledge the duty to disclose material information as defined in Title 37, Code of Federal Regulations, §1.56(a) which occurred between the filing date of the prior application and the national or PCT international filing date of this application.

Anmeldenummer/Appn SN
Anmeldedatum/App'n Date

Status (patented, pending, or abandoned)
(patentiert, anhängig, oder aufgegeben)

Anmeldenummer/Appn SN
Anmeldedatum/App'n Date

Status (patented, pending, or abandoned)
(patentiert, anhängig, oder aufgegeben)

Ich erkläre hiermit, dass alle von mir in der vorliegenden Erklärung gemachten Angaben nach meinem besten Wissen und Glauben der vollen Wahrheit entsprechen, and dass ich diese eidestattliche Erklärung in Kenntnis dessen abgebe, dass wissentlich und vorsätzlich falsche Angaben gemäss Absatz 18, § 1001, der Bundesgesetze der Vereinigten Staaten von Amerika mit Geldstrafe belegt und/oder Gefängnis bestraft werden können, und dass derart wissentlich und vorsätzlich falsche Angaben die Gültigkeit der vorliegenden Patentanmeldung oder eines darauf erteilten Patentes gefährden können.

I hereby declare that all statements made herein of my own knowledge are true, and that all statements made on information and belief are believed to be true; and, further, that these statements were made with the knowledge that willful false statements and the like, so made, are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

VERTRETUNGSVOLLMACHT: Als benannter Erfinder beauftrage ich hiermit die nachstehend benannten Patentanwälte und Patentagent mit der Verfolgung der vorliegenden Patentanmeldung sowie mit der Abwicklung aller damit verbundenen Geschäfte vor dem Patent- und Warenzeichenamt:

Milton Oliver Reg. No. 28,333
Alfred A. Fressola Reg. No. 27,550
K. Bradford Adolphson Reg. No. 30,927
Francis J. Maguire Reg. No. 31,391
James R. Frederick Reg. No. 25,865
William J. Barber Reg. No. 32,720
Jack Pasquale Reg. No. 31,052
Kenneth Q. Lao Reg. No. 40,061
James A. Retter Reg. No. 41,266

POWER OF ATTORNEY: As a named inventor, I hereby appoint the following attorneys and agent to prosecute this application and transact all business in the Patent & Trademark Office connected therewith:

Milton Oliver Reg. No. 28,333
Alfred A. Fressola Reg. No. 27,550
K. Bradford Adolphson Reg. No. 30,927
Francis J. Maguire Reg. No. 31,391
James R. Frederick Reg. No. 25,865
William J. Barber Reg. No. 32,720
Jack Pasquale Reg. No. 31,052
Kenneth Q. Lao Reg. No. 40,061
James A. Retter Reg. No. 41,266

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CUSTOMER NUMBER 004955

WARE, FRESSOLA, VAN DER SLUYS &
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MONROE, CT 06468-0224

← 201=NJ
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P.O. Box 1450
Alexandria, VA 22313-1450

Application Number	10/ 562,628
Filing Date	22 DEC. 2005
First Named Inventor	WINKLER et al.
Art Unit	3746
Examiner Name	D. KASTURE
Attorney Docket Number	870-003-200

Please change the Correspondence Address for the above-identified patent application to:

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- Assignee of record of the entire interest.
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- Attorney or agent of record. Registration Number 28 333
- Registered practitioner named in the application transmittal letter in an application without an executed oath or declaration. See 37 CFR 1.33(a)(1). Registration Number _____

Signature
/MILTON M. OLIVER/

Typed or Printed
Name MILTON M. OLIVER

Date 12 MAR. 2009

Telephone 781-910-9664 or 774-521-3058

NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below*.

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This collection of information is required by 37 CFR 1.33. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 3 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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<small>Address to: Commissioner for Patents P.O. Box 1450 Alexandria, VA 22313-1450</small>	
<small>Application Number</small>	10/592,628
<small>Filing Date</small>	22 DEC. 2005
<small>First Named Inventor</small>	WINKLER et al.
<small>An Unit</small>	3746
<small>Examiner Name</small>	D. KASTURE
<small>Attorney Docket Number</small>	870-003-200

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<small>I am the:</small>		
<input type="checkbox"/> Applicant/Inventor		
<input type="checkbox"/> Assignee of record of the entire interest. Statement under 37 CFR 3.72(b) is enclosed. (Form PTO/SB/68).		
<input checked="" type="checkbox"/> Attorney or agent of record Registration Number <u>28 333</u>		
<input type="checkbox"/> Registered practitioner named in the application transmittal letter in an application without an executed oath or declaration. See 37 CFR 1.33(e)(1). Registration Number _____		
<small>Signature</small> /MILTON M. OLIVER/ <small>Typed or Printed Name</small> MILTON M. OLIVER		
<small>Date</small> 12 MAR. 2009	<small>Telephone</small> 781-910-9664 or 774-521-3058	
<small>NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required. See below.</small>		
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MAR-12-2009 16:43 From:OLIVER INT. PROPERTY 5086818413		To:15712738300	Page: 1/1																												
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Date 12 MAR. 2009		Telephone 701-910-9604 or 774-621-3058																													
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